

**DISPOSITION:** November 14, 1952. Pleas of *nolo contendere* having been entered, the court imposed a fine of \$300 against Defendant Fedler and a fine of \$50 against Defendant Gilmer.

**3857. Misbranding of methyltestosterone tablets, dextro-amphetamine sulfate tablets, thyroid tablets, tablets of phenobarbital and mannitol hexanitate, and capsules of pentobarbital sodium and aspirin.** U. S. v. A-B Drug Co., a partnership, and Calvin Bigley and John R. Burns. Pleas of *nolo contendere*. Partnership fined \$240; Calvin Bigley, \$15; and John R. Burns, \$45. (F. D. C. No. 32729. Sample Nos. 15419-L to 15421-L, incl., 15423-L, 15425-L, 15426-L, 15428-L, 15429-L.)

**INFORMATION FILED:** September 18, 1952, Western District of Oklahoma, against the A-B Drug Co., Lawton, Okla., a partnership, and Calvin Bigley, pharmacist, and John R. Burns, an employee of the partnership.

**INTERSTATE SHIPMENT:** Prior to the dates of the sales reported below, various quantities of *methyltestosterone tablets, dextro-amphetamine sulfate tablets, thyroid tablets, tablets of phenobarbital and mannitol hexanitate, and capsules of pentobarbital sodium and aspirin* were shipped in interstate commerce into the State of Oklahoma.

**ALLEGED VIOLATION:** On or about October 11, 13, 15, and 22, 1951, while the drugs were being held for sale after shipment in interstate commerce, 1 bottle of *thyroid tablets* was sold and disposed of to a purchaser in the original bottle in which the tablets had been shipped in interstate commerce, without the prescription of a physician; and various quantities of the other drugs were repacked and sold without prescriptions, which acts resulted in the drugs being misbranded.

The A-B Drug Co. was charged with causing the violations involved in all counts, and, in addition, Calvin Bigley was joined in 1 count and John R. Burns was joined in 3 counts and charged with causing the violations involved in those counts.

**NATURE OF CHARGE:** Misbranding, Section 502 (f) (1), the labeling of the *thyroid tablets* failed to bear adequate directions for use. (The bottle in which the tablets had been shipped in interstate commerce bore no directions for use since it was exempted from such requirement by a statement on the label "Caution: To be dispensed only by or on the prescription of a physician." The act of the defendants in dispensing the drug without a physician's prescription caused the exemption to expire.)

Further misbranding, Sections 502 (b) (1) and (2), the repackaged drugs failed to bear labels containing the name and place of business of the manufacturer, packer, or distributor, and accurate statements of the quantity of the contents; and, Section 502 (f) (1), the labeling of the repackaged drugs failed to bear adequate directions for use.

Further misbranding, Section 502 (d), the repackaged tablets of *phenobarbital and mannitol hexanitate* and capsules of *pentobarbital sodium and aspirin* contained chemical derivatives of barbituric acid, which derivatives have been found to be, and by regulations designated as, habit forming; and the labels of the drugs failed to bear the name, and quantity or proportion of such derivatives and in juxtaposition therewith the statement "Warning—May be habit forming."

**DISPOSITION:** November 20, 1952. Pleas of *nolo contendere* having been entered by the defendants, the court fined the A-B Drug Co. \$240, Calvin Bigley \$15, and John R. Burns \$45.